



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,465	12/03/2001	Xuefeng Wang	SMAR-019	7243

24353 7590 05/19/2003

BOZICEVIC, FIELD & FRANCIS LLP
200 MIDDLEFIELD RD
SUITE 200
MENLO PARK, CA 94025

EXAMINER

FAY, ZOHREH A

ART UNIT	PAPER NUMBER
----------	--------------

1614

DATE MAILED: 05/19/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/005,465

Applicant(s)

WANG ET AL.

Examiner

Zohreh Fay

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 29-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 24-28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: .

Art Unit: 1614

Claims 1-28 are presented for examination.

The response to the restriction requirement of March 25, 2003 has been received and entered.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (U.S. Patent 4,323,558) and Boltralick (U.S. Patent 5,420,120).

Nelson teaches the use of the claim designated copper chelator, triethylenetetramine in a pharmaceutical formulation for the treatment of inflammation. See Abstract, line 2. Boltralick teaches the use of glucocorticoid anti-inflammatory compounds for the treatment of dermatological and ophthalmic inflammation caused by laser irradiation. See page 4, paragraph 10, 11 and page 15, paragraph 122. The primary reference differs from the claimed invention in the use of the claimed compounds for the treatment of ocular inflammation. It would have been obvious to a person skilled in the art to use the claimed composition for the treatment of the inflammation of eye, considering that the secondary references teaches, compounds which have been used for the treatment of inflammation of a different part of the body, can also be used for the treatment of ocular inflammation.

One skilled in the art would have been motivated to combine the teachings of the above references, since one relates to the use of the claimed amines for the treatment

Art Unit: 1614

of inflammation of a part of the body other than eye, and the other teaches that anti-inflammatory compounds can be used for the treatment of inflammation in different parts of the body. To use a well known anti-inflammatory drug for the treatment of ophthalmic inflammation would have been obvious to a person skilled in the art, considering that the state of the art teaches anti-inflammatory agents, can be used for the treatment of inflammation of different parts of the body including eye. The use of the claimed composition for the treatment of inflammation caused by different causes does not create a patantably distinct invention in the absence of evidence to the contrary. Applicant has presented no evidence to establish the unexpected or unobvious nature of the claimed invention, and as such, claims 1-23 are properly rejected under 35 U.S.C. 103.

Claims 25-28 are objected to a being dependent on a rejected claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Fay whose telephone number is (703) 308-4604. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Seidel can be reached on (703) 308-4725. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

ZOHREH FAY
PRIMARY EXAMINER
GROUP 1200



Application/Control Number: 10/005,465

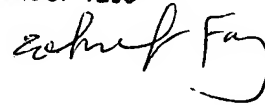
Page 4

Art Unit: 1614

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Z.F
May 9, 2003

ZOHREH FAY
PRIMARY EXAMINER
GROUP 1200

A handwritten signature in black ink, appearing to read 'Zohreh Fay', written over the printed name and title.